IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 26872 of 2006(Y)

PETITIONER:

MAYA S., W/O.SUDHEER. V.,
DEVI VILASAM, MATTAKARA P.O.,
KOTTAYAM.

BY ADV. SRI.N.RAGHURAJ
SMT.K.AMMINIKUTTY

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF EDUCATION,
KOTTAYAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
KOTTAYAM.

3. THE MANAGER, MATTAKKARA HIGH SCHOOL
MATTAKKARA, KOTTAYAM.

4. SMT.GEETHA G. NAIR, L.D.(HINDI) TEACHER
MATTAKKARA HIGH SCHOOL, MATTAKARA, KOTTAYAM.

R3 BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA
SRI.T.V.VIJAYARAJAN
SRI.M.SAJJAD
R4 SRI.KRB.KAIMAL
R1 BY GOVT. PLEADER SRI.T.T. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 26872/2006.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE PHOTOCOPY OF THE REPRESENTATION DATED 24.5.2006 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXT. P2 : TRUE PHOTO COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ON 16.6.2006.

EXT. P3 : TRUE PHOTOCOPY OF THE STAFF FIXATION ORDER NO.D/DIS.B-4/4640/06 DATED 24.7.2006 FOR THE YEAR 2006-07 ISSUED BY THE 2ND RESPONDENT.

EXT. P4 : TRUE PHOTO COPY OF THE PROCEEDINGS NO.2/2006-07 DATED 28.8.2006 OF THE ERD RESPONDENT.

EXT. P5 : TRUE PHOTO COPY OF THE COMPLIANT FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON 24.8.2006.

EXT. P6 : TRUE PHOTO COPY OF THE COMMUNICATION NO.B-4/4651/06 DATED 21/9/2006 ISSUED BY THE 2ND RESPONDENT.

EXT. P7 : TRUE PHOTO COPY OF THE GO(P) NO.187/05/GEN.EDN. DATED 17.6.2005.

EXT. P8 : TRUE PHOTO COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT BEARING ORDER NO.B4/13286/2006 DATED 12.10.2006.

EXT. P9 : TRUE PHOTO COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT BEARING NO.3/2006-07 DTED 20.10.2006.

EXT. P10 : TRUE PHOTO COPY OF THE REPRESENTATION BEFORE THE 1ST RESPONDENT DATED 30.10.2006.

RESPONDENT'S EXTS:

EXT. R3(a) : TRUECOPYOF THE ORDER OF APPOINTMENT OF SMT.GEETHA G. NAIR.

EXT. R3(b) : TRUE COPY OF THE DECISION REPORTED IN 1987(1) K.L.T.686.

EXT. R3(c) : TRUE COPY OF THE ORDER NO.B4/13286/2006 OF THE DY.DIRECTOR OF EDN.

EXT. R3(d) : TRUE COPYOF THE PROCEEDINGS OF THE MANAGER (ORDER NO.3/2006-07).

EXT. R3(e) : TRUE COPY OF THE ORDER OF APPOINTMENT OF SMT.GEETHA G. NAIR.

K.M.JOSEPH, J.

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WP.(C) No.26872 OF 2006

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Dated this the 15th day of December, 2006

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner was appointed as UPSA in the third respondent's School, which was approved. While continuing as UPSA, a post of HSA (Hindi) arose. She was fully qualified and she filed an application. But instead of appointing her, the Manager appointed the fourth respondent in the anticipated vacancy of LG (Hindi) consequent to the reduction of one post HSA (Hindi) in the staff fixation. The petitioner staked her claim for the post of LG (Hindi) stating that she being a person possessed of Post Graduation with B.Ed in Hindi is fully qualified. But the fourth respondent was appointed. One post of HSA (Hindi) was abolished in the staff fixation order and one post of LG (Hindi) was sanctioned. Consequent upon the abolition of the post of HSA (Hindi), the junior most HSA was reverted and consequently the petitioner being the junior most UPSA was retrenched. The fourth respondent, though appointed as LG (Hindi) Teacher, is junior to the petitioner, and she ought to have been retrenched, is the case of the

petitioner. Petitioner filed Ext.P5 representation before the first respondent. In the meantime Ext.P6 was issued, as per which the claim of the petitioner was rejected relying on Ext.P7 Government Order. I would think that the petitioner should be relegated to the filing of revision against Ext.P9 order of the Manager. In fact learned counsel appearing for the third respondent Manager would contend that the proper remedy is to file a revision.

2. I heard counsel for the fourth respondent also. He does not dispute that revision will lie against Ext.P9 order.

In such circumstances, if the petitioner prefers a revision within a period of one month from today against Ext.P9 order before the Government under Rule 92 of Chapter XIVA KER, the revisional authority (Government) will consider and take a decision thereon after hearing the petitioner and respondents 3 and 4 within a period of two months from the date of receipt of the revision. Till such time as a decision is taken, respondents 1 and 2 shall not approve the appointment of the fourth respondent as language teacher in Hindi in the third respondent's School.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.